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## FIRM RESUME

### WE WANT TO WIN

Founded in 1980, Susman Godfrey L.L.P. is a law firm with more than 70 lawyers in Houston, Dallas, Los Angeles, and Seattle. The firm represents plaintiffs and defendants in a broad range of commercial litigation matters, including antitrust, patent and intellectual property, securities and corporate governance litigation, energy, commercial and products liability litigation, bankruptcy and financial restructuring, accounting malpractice, arbitration, and foreign and international litigation matters.

In 2005, the firm was named one of the top litigation boutiques in the country by *The American Lawyer*. We dedicate ourselves to winning lawsuits! In over 25 years since our founding, we have won numerous verdicts of a million dollars or more. The cumulative dollar amount of these verdicts to date exceeds \$2 billion.

Although we are proud of our record of success at trial, often we best serve our clients' interests by resolving disputes quickly, through negotiation and favorable settlement. In a little more than a decade, we have achieved for plaintiffs in over 75 lawsuits settlements in excess of \$1 million, representing total recoveries of over \$2.7 billion.

We have just as effectively represented defendants, who often retain us after they have suffered an adverse judgment. We represented a major communications company being sued for an alleged \$1.5 billion in damages from supposed anticompetitive conduct. We filed a motion to dismiss the complaint, and in January 2003, the court agreed with our client and dismissed the claims entirely. In 2002, we were hired to defend an antitrust case after discovery was completed. Our sole duty was to try the case. Two weeks into the trial, the judge granted a directed verdict in favor of our client. Additionally, we recently represented a client sued for fraud in connection with a patent licensing agreement. After a three week trial, the parties settled by entering into a new licensing agreement that will pay our client \$1.1 billion over its term.

### WE ARE USED TO WINNING

Susman Godfrey puts a premium on winning because our lawyers have always excelled. More than three-quarters served as members of law reviews, most as editors. Almost two-thirds clerked for federal judges, five for Justices of the United States Supreme Court. The academic credentials of our lawyers speak volumes about the quality of work you can expect from us.

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Winning is especially important to Susman Godfrey because our compensation depends so much on our performance. We devote approximately 60 percent of our time to litigation under fee agreements that tie our pay to the results we achieve, not to the hours we bill. We have developed innovative contingent and flat fee arrangements with many clients, including partial contingent fees that reduce our hourly rates for a stake in the outcome. We have even used reverse contingent fee arrangements for defending cases where the amount we saved our clients determined our compensation.

Working at our own risk and expense encourages efficient work habits. That efficient approach carries over to our hourly business. The quality of our service, the lack of duplication of effort, your access to your lawyers, and our ability to gear up quickly to handle your case all make selecting Susman Godfrey a cost-effective decision.

We know that our clients hire us to achieve the best result possible at the least cost. We also know that clients want us to evaluate the likely outcome of litigation in a responsible and dependable manner and to communicate that evaluation promptly and clearly. We know that your business decisions will depend on our best analysis of where you stand in your lawsuit. We will tell you.

When you request one, we prepare a budget that shows you what we intend to do on your case and how much we expect it to cost. Our bills tell you what services we performed, when we performed them, and how long they took. We know that you want the maximum benefit from the money you spend in litigation, and Susman Godfrey constantly looks for ways to improve the service you get for what you spend.

## **2006 – AN AMAZING START**

- In March 2006, IBM and Boston-based Sky Technologies, LLC, announced that they have settled a lawsuit brought by Sky Technologies in the U.S. District Court for the Eastern District of Texas alleging patent infringement, breach of contract and misappropriation of trade secrets. Under the terms of the settlement, IBM has agreed to license Sky's patents and technology for conducting online negotiation. U.S. District Judge David Folsom approved the terms of the settlement. Financial terms of the agreement have not been disclosed. Sky was represented by Steve Susman, Max Tribble, and Brian Melton of Susman Godfrey, and George Schwab from Townsend, Townsend & Crew.
- On February 3, 2006, the United States District Court for the Central District of California denied defendant Johnson & Johnson's efforts to dismiss on summary judgment the antitrust lawsuit brought by Susman Godfrey's client, Applied Medical Resources. Applied's lawsuit alleges that certain Johnson & Johnson subsidiaries have unlawfully maintained a monopoly in the market for trocars, a device used in minimally-invasive surgery. According to the lawsuit, Applied's trocars are less expensive and higher in quality than Johnson & Johnson's trocars, yet Johnson & Johnson's anticompetitive conduct has prevented Applied from achieving more substantial success in the trocar market. Applied's claims are similar (but not identical) to the claims of Masimo Corporation, on whose behalf Susman Godfrey obtained a \$140 million antitrust verdict, pre-trebling, against defendant Tyco Health Care in March 2005. Susman Godfrey's victory on summary judgment means that the Applied case will proceed to trial in July 2006. The Susman Godfrey lawyers representing Applied are

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Stephen Susman, David Marcus, Joseph Grinstein, David Orozco, and Jason Fulton.

## 2005 – A GREAT YEAR

- On November 29, 2005, Hon. T. John Ward entered an order and final judgment finally approving settlements in the Fleming Securities Class Action Litigation. Kenneth S. Marks of Susman Godfrey L.L.P. is Co-Lead Counsel in that litigation, along with Sherrie R. Savett of Berger & Montague, P.C. Johnny W. Carter of Susman Godfrey L.L.P. has also worked extensively on this litigation. The settlements total \$94 million, or \$73 million net of attorneys' fees. In late 2002, 15 securities class action lawsuits were filed against Fleming Companies, Inc., which at the time was one of the largest food wholesalers in the United States. In December 2002, Judge Ward appointed Mr. Marks and Ms. Savett to be Co-Lead Counsel, and the Judicial Panel on Multidistrict Litigation (JPM) subsequently transferred all cases to the Eastern District of Texas. In April 2003, Fleming Companies, Inc. declared bankruptcy and thereafter was liquidated. Plaintiffs pursued claims against former directors and officers of Fleming, Fleming's auditor, and underwriters of one of Fleming's public offerings. In June 2004, the Court largely denied motions to dismiss brought by several defendants, and the case subsequently was set for trial in March 2006. Over the course of 2005, Counsel for Plaintiffs negotiated separate settlements with each of the defendants. The settlements total \$94 million.
- In December 2005, Susman Godfrey settled client SuperSpeed Software's patent infringement suit against Oracle Software. The case was pending in the United States District Court for the Southern District of Texas (Houston Division). Susman Godfrey finalized the settlement with Oracle soon after the District Court issued a claims construction opinion that was highly favorable to SuperSpeed. Details of the settlement are confidential. The suit alleged that Oracle's software products, including Oracle Parallel Server and Real Applications Clusters, infringed a number of SuperSpeed patents on technology for increasing data processing speed by caching data in local memory. SuperSpeed was represented by Susman Godfrey attorneys Neal Manne, Max Tribble, Edgar Sargent, Brooke Taylor, and Lane Dilg.
- In November 2005, the trial court approved Oxy USA, Inc.'s settlement to pay \$12 million in a class action lawsuit brought by Susman Godfrey's Tom Paterson and Shawn Raymond and the Gallegos Law Firm. The lawsuit was filed on behalf of a class of royalty owners who leased mineral rights to Oxy for the production of carbon dioxide from the Bravo Dome Carbon Dioxide Unit in northeastern New Mexico. The \$12 million settlement, of which \$3.5 million was awarded for attorneys' fees, represents approximately 90 percent of the total amount of actual damages sought by the class. The settlement also requires Oxy to pay litigation expenses of up to \$400,000 and settlement administration expenses of up to \$200,000. Finally, Oxy has agreed to change how it calculates plaintiffs' royalty on a going-forward basis. This change ties the value of carbon dioxide to the price of oil and is expected to result in a near doubling of the royalty amounts Oxy was paying the class members before the filing of this lawsuit in 2004.
- Since 2004, Susman Godfrey has represented Santa Clara, California-based MicroUnity Systems Engineering, Inc. in its litigation against entities that infringe MicroUnity's extensive patent portfolio. In April 2004, MicroUnity filed suit against Intel Corporation, alleging that Intel's Pentium III, Pentium 4, and Pentium M processors infringed

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MicroUnity's patents covering its "mediaprocessor" technology. MicroUnity also sued Dell, Inc. for Dell's use of allegedly infringing Intel processors. In October 2005, one month before trial was to commence, MicroUnity, Intel, and Dell reached a settlement, the details of which are confidential. Intel publicly disclosed the financial terms of the settlement in its Third Quarter 2005 10-Q. Representing MicroUnity against Intel and Dell were Susman Godfrey attorneys Steve Susman, Max Tribble, Joe Grinstein, Brooke Taylor, and Kathy Hoek.

- On September 30, 2005, Novamedix Limited, its parent Orthofix International NV, and Kinetic Concepts, Inc. announced an agreement to settle litigation that commenced over a decade ago. Novamedix filed suit in 1992 against KCI regarding alleged patent infringement, Lanham Act, and breach of contract claims pertaining to medical devices designed to prevent deep vein thrombosis in non-ambulatory patients. Susman Godfrey was retained in 2003 to serve as lead counsel at trial, as well as through summary judgment and Markman hearings. Following favorable rulings, the case had been set for trial in January 2006. Under the terms of the settlement, KCI agreed to pay Novamedix \$75 million, and to give Novamedix an option to receive either an assignment of or a license to certain KCI foot pump patent rights. Susman Godfrey partners Steve Susman and Charles Eskridge represented Novamedix in the suit against KCI, acting as co-counsel to attorneys from Morgan, Lewis & Bockius LLP.
- In September 2005, Susman Godfrey won summary judgment for its client, IntercontinentalExchange, Inc. ("ICE"), in a copyright infringement case brought by the New York Mercantile Exchange, Inc. ("NYMEX") in federal court in New York. This case arose from claims brought against ICE by NYMEX for copyright infringement. On its electronic platform, ICE offers trading in some contracts that are cleared in part on the basis of NYMEX settlement prices. ICE also describes some contracts by reference to NYMEX. NYMEX claimed that ICE violated its intellectual property rights and sued for copyright infringement, service mark infringement, violation of the federal and New York state Anti-Dilution statutes and tortious interference with contract. NYMEX sought tens of millions of dollars in damages and an order barring ICE from referencing NYMEX settlement prices. After the close of discovery, ICE filed a motion for summary judgment seeking dismissal of all claims NYMEX had brought against it. NYMEX also filed its own motion for partial summary judgment on its claims for copyright infringement and tortious interference. In an opinion dated September 29, 2005, United States District Court Judge John G. Koeltl granted ICE's motion for summary judgment and denied NYMEX's cross-motion for summary judgment.
- In September 2005, Susman Godfrey finalized the settlement of the \$250 million antitrust claim brought by ChoiceParts against General Motors, Ford Motor Company, Daimler Chrysler, and OE Connection. The terms of the settlement are confidential. ChoiceParts alleged that the Big 3 automakers conspired to refuse to license parts data to ChoiceParts' revolutionary electronic parts locating service. The case was filed in 2001. After a request for injunction was denied, ChoiceParts hired Susman Godfrey to assist in preparing the case for trial. In March 2005, the United District Court for the Northern District of Illinois denied Defendants' Motions for Summary Judgment and Daubert Motions. With a trial date pending, Defendants settled the matter.
- In September 2005, Susman Godfrey settled patent infringement lawsuit for Amazon.com. Susman Godfrey represented Amazon.com in a patent infringement

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lawsuit in the Eastern District of Texas filed by Soverain Software in January 2004. Soverain alleged that Amazon.com's websites infringe claims in patents covering basic e-commerce technology, including electronic shopping carts. Days before trial, and just after the Court granted one of Amazon.com's summary judgment motions, the parties resolved the case. Among other terms, the settlement entitles Amazon.com to a non-exclusive license to Soverain's entire patent portfolio. Mark Wawro, Parker Folsom, Max Tribble, Brooke Taylor, and Justin Nelson represented Amazon.com.

- On June 30, 2005, Ken McNeil and Jonathan Ross of our Houston office and John Turner of our Dallas office won a \$38 million verdict in Florida State Court in the case of Florida Health Plan Holdings vs. HIP New York. The jury also found that punitive damages were warranted – a very unusual jury finding for commercial cases in Florida courts. The trial in Fort Lauderdale ran three and one half months. The case settled the day after this verdict – and during the second phase of the trial when the jury was considering the amount of punitive damages that were warranted. The confidential amount of the settlement was highly satisfactory to our client.
- On April 11, 2005, Gateway Inc. and Microsoft Corp. jointly announced that they have entered into an agreement to resolve legal issues between the two companies and work together on the marketing and development of Gateway personal computing products. As part of the agreement, Microsoft will provide funds that Gateway expects to use for marketing initiatives, including advertising, sales training and consulting, as well as the research, development and testing of new Gateway products that can run current Microsoft products and Microsoft's next-generation operating system and productivity software.
- On April 5, 2005, the United States Bankruptcy Court for the Northern District of Georgia awarded the litigation claims representative for the bankruptcy estate of Paragon Trade Brands, Inc., approximately \$461 million in damages and attorneys fees against Weyerhaeuser Corp. in a suit for breach of warranty arising from Weyerhaeuser's 1993 conveyance to Paragon of assets constituting Weyerhaeuser's private label diaper business. Paragon was subsequently driven into bankruptcy by a massive patent infringement judgment obtained against Paragon by Proctor & Gamble. In the ensuing litigation, the bankruptcy court granted summary judgment to Paragon's litigation claims representative, holding that Weyerhaeuser had breached warranties relating to the sufficiency of intellectual property rights that it had conveyed to Paragon. Following the entry of summary judgment, the court conducted a two-week damages trial, culminating in findings of fact and conclusions of law pursuant to which the court awarded damages in the amount of \$457,858,150 and approximately \$3 million in attorney's fees and expenses against Weyerhaeuser.
- On March 21, 2005, a federal jury in Los Angeles, California awarded our client, Masimo Corporation, \$140,000,000 in damages against Tyco Health Care Group, LP and its affiliate, Mallinckrodt, Inc. Masimo, located in Irvine, California, had brought claims under the federal antitrust laws based on Tyco's anticompetitive practices that prevented Masimo from selling its competing pulse oximetry products to hospitals located throughout the United States. Pursuant to the federal antitrust laws, the jury award was automatically tripled to \$420,000,000, with attorneys' fees and costs also added. In a post-trial ruling in March 2006, the trial court upheld the jury's liability findings, but ordered a new trial on damages. Masimo was represented at trial by Steve Susman, Marc

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Seltzer, Vineet Bhatia and Steve Morrissey. The damages trial has not yet been scheduled.

- In 2001, 53 plaintiffs sued ConocoPhillips and Rio Grande Resources, among other defendants, alleging that the defendants' Karnes County uranium mining and milling operations caused each plaintiff to develop cancer or other medical ailments. The plaintiffs alleged damages in excess of \$45 million. In February 2003, after nearly two years of litigation, Lee Godfrey was retained as lead trial counsel. Within a few short months, the defendants filed case dispositive Daubert and summary judgment motions. In 2004, the District Court of the Western District of Texas dismissed several plaintiffs' claims by granting some of the summary judgment motions. On March 30, 2005, the Court dismissed all remaining claims by granting the defendants' Daubert motion, striking plaintiffs' causation expert. Other Susman Godfrey attorneys representing ConocoPhillips and Rio Grande Resources along with Lee Godfrey were Vineet Bhatia and Brian Melton.
- In February 2005, Susman Godfrey partners Tom Paterson and Harry Susman and associate Suyash Agrawal successfully represented plaintiffs Enterprise NGL Pipelines LLC and Enterprise Products Operating LP in connection with claims that they were entitled to buy two blocks of stock worth more than \$70 million in Dixie Pipeline Company. Sunoco Pipeline had originally offered to buy a block of stock from Standard Gas, a subsidiary of ChevronTexaco. Sunoco's offer triggered a right of first refusal that Enterprise owned that gave Enterprise 25 days to close the transaction. Given the size of the sale, Enterprise had to obtain approval from the Federal Trade Commission under the Hart Scott Rodino Act, which mandates a minimum 30-day waiting period unless terminated early. When the FTC did not grant early termination, Enterprise could not close within the 25 days and requested an extension. Standard denied the request. In the petition it filed on December 3, 2004, Enterprise claimed that it had a right to an extension. After being sued, Standard granted an extension until the 30 days expired. Sunoco then sued Standard, claiming that it was entitled to buy the stock because Enterprise had not closed within 25 days. In mid-January 2005, Harris County State District Court Judge Bill Burke set the case for trial on the merits on February 22-23. All discovery was conducted during approximately five weeks. After the close of a 2-day bench trial, Judge Burke ruled in Enterprise's favor on all issues. Enterprise was awarded the right to buy the stock, which was worth more than \$70 million.
- Susman Godfrey L.L.P. was named as one of the top two litigation boutiques in the nation by *The American Lawyer* in that magazine's first Litigation Boutique of the Year competition. The January 2005 award underscores the firm's extraordinary bench strength as our lawyers continue to build on and surpass Susman Godfrey's legendary track record of big wins and great results.

## 2004 – AN AMAZING YEAR

- In November, 2004, Susman Godfrey obtained \$536 million settlement from Microsoft on behalf of Novell, Inc. Susman Godfrey represented Novell, Inc. in negotiating a settlement with Microsoft Corp. of antitrust claims related to Novell's NetWare business. Under the terms of the settlement that were publicly disclosed by both companies on November 8, 2004, Microsoft will pay Novell \$536 million in cash.

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- In September, 2004, Susman Godfrey partner Tom Paterson served as co-counsel with lawyers from Orrick, Herrington & Sutcliffe to defend claims of patent infringement that plaintiffs asserted against Universal Instruments Corporation, a subsidiary of Dover Corporation. Plaintiffs alleged that Universal willfully infringed multiple claims of their patent. Plaintiffs sought \$30,000 per unit in damages and asked the Court to declare the case exceptional. Universal denied infringement and asserted that plaintiffs' claims were invalid based on multiple prior art systems that plaintiffs never disclosed to the Patent Office. A three-week jury trial was held in August before The Honorable Lee H. Rosenthal, United States District Court Judge for the Southern District of Texas. After two and a half days of deliberation, the jury found infringement but awarded damages of only \$800,000 instead of the approximately \$40,000,000 plaintiffs sought and, regardless, found that all but two dependent claims were invalid. On post-verdict motions, Universal asked the Court to find no infringement as a matter of law and to declare the two remaining claims invalid. In a February 10, 2005 opinion, the Court granted Universal's motion for judgment as a matter of law finding no infringement and found as a matter of law that the remaining two dependent claims were invalid.
- The Eleventh Circuit affirmed dismissal of \$1.5 billion antitrust case against client Clear Channel Communications, Inc., in June 2004.
- January 2004 - Won a \$3.2 million jury verdict in a high profile case for Apache Corporation against two affiliates of Dynegy, Inc. We alleged that the Dynegy affiliates breached 18 different gas purchase contracts by failing to account and pay for over 400 million cubic feet of gas that Apache produced and delivered from its wells. After a five day trial, the jury found for Apache on every issue. The jury found that the Dynegy affiliates breached all 18 of the contracts, willfully engaged in deceptive and unfair trade practices, and the jury rejected the Dynegy affiliates' counterclaims. Over a year before trial, the Dynegy affiliates had paid Apache an additional \$1.38 million to resolve other breach of contract claims that Apache asserted in the case. The trial court awarded Apache attorneys' fees and granted Apache a declaratory judgment but also granted a judgment notwithstanding the verdict, and there will be an appeal. Click here to read excerpts from an article in *The Odessa American* about this case.

## 2003 - HIGHLIGHTS

- A panel of the United States Court of Appeals for the Fifth Circuit, on December 17, 2003, ruled unanimously in favor of our client, the Bombardier Aerospace Employee Welfare Benefits Plan, in an appeal of an ERISA matter having major implications for health plans in the Fifth Circuit and elsewhere. The Bombardier plan had sought reimbursement of the medical benefits it had advanced to a plan member after that member recovered medical expenses in a lawsuit against the tortfeasor who had caused his injuries. Rejecting the Ninth Circuit's contrary rule, the Fifth Circuit held that ERISA authorized the claims raised by the Bombardier plan and that the plan member's attorney was not entitled to attorneys' fees from the plan for his work in the underlying tort lawsuit. The Bombardier opinion will now permit health plans in the Fifth Circuit to recoup their costs by pursuing reimbursement for medical benefits they advance following auto accidents and other torts. The Susman Godfrey attorneys representing the Bombardier plan were Joseph S. Grinstein and Neal S. Manne.
- On August 6, 2003, Susman Godfrey won a \$27.8 million award from a panel of

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arbitrators for its clients, James P. Hunter, III, and the James P. Hunter, III Family Partnership Limited. The award came in a securities arbitration against Service Corporation International, and certain of its current and former officers. Hunter's securities claims against Service Corp. arose out of the January 1999 merger of Service Corp. and Equity Corporation International. James Hunter was Equity Corporation International's CEO before the merger. The arbitration followed several years of jurisdictional challenges, in which Susman Godfrey handled separate appeals to both the United States Court of Appeals for the Fifth Circuit and the Texas Supreme Court. As Service Corp. disclosed in its SEC filings, the arbitrators ruled in favor of Susman Godfrey's clients on their claims under the Texas Securities Act and awarded them \$27.8 million.

- Susman Godfrey obtained in August, 2003, a mediated settlement with Microsoft on behalf of former operating system competitor Be, Incorporated. Under the terms of the settlement, Be will receive a payment of \$23,250,000 after attorneys' fees and expenses. All other terms of the settlement remain confidential.
- In August 2003, a settlement became final in *Duramed Pharmaceuticals, Inc. v. Wyeth-Ayerst Laboratories*, on file in the United States District Court for the Southern District of Ohio. Susman Godfrey L.L.P. represented plaintiff Duramed Pharmaceuticals, Inc. in the anti-trust lawsuit filed September 5, 2000. Duramed alleged that Wyeth-Ayerst, the maker of market-dominant estrogen replacement and hormone replacement drugs, had violated the Sherman Act and Clayton Act by, among other things, entering into contracts with managed care entities to exclude Duramed's drug Cenestin from managed care formularies. On July 30, 2003, Susman Godfrey obtained a jury verdict in state court in Dallas for our client, Cavalry Investments, against EquiCredit of America, a Bank of America subsidiary, in a breach of contract and interference with contract case. The jury awarded \$5 million for breach of contract, \$15 million for interference, \$25 million in punitives and \$1.9 million in attorneys fees.
- The July 21, 2003 issue of the *National Law Journal* singled out Susman Godfrey as one of the nation's premier plaintiff firms. Susman Godfrey's innovative approach to litigation and its results in major commercial litigation have made this 62 lawyer firm one of the nation's finest and a nationally recognized "go to" firms for large complex commercial cases. Three recent cases were highlighted by the *National Law Journal* as examples of complex commercial litigation successfully handled by the firm. One of the cases, *In Re Vitamins Antitrust Litigation (DAD'S) 2003*, has also been named as one of most significant jury verdicts of 2003 in their July 28, 2003 issue.
- In July 2003, Susman Godfrey partner Bill Carmody and associate Jonathan Bridges won at trial in federal court in St. Louis in an insurance dispute between Twin City Fire Insurance, one of the Hartford companies, and IMCO Recycling, Inc. Irving, Texas. Our client, IMCO, was at the time the world's the leading recycler of aluminum and zinc. In 1997 Ernest Bland, an employee for an IMCO subsidiary, was severely burned while working near a furnace. Bland sued IMCO for negligence and obtained a \$4 million judgment before Susman Godfrey was involved. Twin City then sued IMCO, seeking a declaratory judgment declaring it was not responsible for coverage of the Bland judgment because it had received notice of the claim only eighteen hours before the trial. Timely notice was a condition precedent to coverage according to the policy. The jury found for IMCO on all counts, finding that Twin City had received timely notice via its agent,

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AON Risk Services of Texas, and finding no prejudice to Twin City from late notice. Based on the verdict, the court granted IMCO declaratory relief, requiring Twin City to provide insurance coverage for the Bland case, and it awarded attorney fees to IMCO. The case settled on appeal with Twin City paying the entire amount of the Bland judgment, with interest, and over \$600,000.00 in attorney fees.

- On June 30, 2003, Susman Godfrey obtained \$40 million in settlements on behalf of the Anicom shareholders represented by the State of Wisconsin Investment Board, the Anicom bankruptcy estate, and a group of Anicom's secured lenders led by Harris Bank of Chicago. The plaintiffs' claims involved the now-bankrupt wire distributor Anicom, Inc. Ken McNeil of Susman Godfrey was lead lawyer for a joint prosecution group.
- On June 13, 2003, a federal jury in Washington D.C. found that four defendant companies, Mitsui & Co. of Japan, Mitsui USA, DCV, Inc. and DuCoa L.P. had participated in a global conspiracy to allocate world markets and fix the price of vitamin B4, also known as choline chloride, during the ten year period from 1988 to 1998. The 11 member jury unanimously awarded the plaintiffs, a class of direct purchasers of vitamin B4, \$49.5 million in damages. Pursuant to federal antitrust laws, the jury's award must be trebled, and attorneys' fees added, meaning the jury award will end up costing the defendants over \$150 million. The plaintiffs were represented at trial by James T. Southwick of Susman Godfrey LLP, along with lawyers from the Washington D.C. offices of Boies Schiller & Flexner and Cohen Milstein Hausfeld & Toll. Friday's vitamin B4 verdict marked the conclusion of the first trial in the wide ranging Vitamins Antitrust Litigation, involving global price fixing and market allocation agreements by manufacturers of a wide array of vitamins. Susman Godfrey LLP has served as co-lead counsel for the class action plaintiffs since 1999. The jury award in the vitamin B4 case is added to the hundreds of millions of dollars in settlements Susman Godfrey and its co-counsel have previously recovered for class action plaintiffs in related Vitamins Antitrust cases.
- The Trustee For the Creditors' Trust of Living.com, Inc., an *e-tailer* specializing in furniture, kitchen, garden, and other home living products, sued Amazon.com in August 2002, seeking more than \$64,000,000 in damages for alleged breaches of contract and fraudulent transfers in connection with a co-branding agreement between Amazon.com and Living.com. Following expedited discovery, Susman Godfrey, LLP filed and argued a motion for summary judgment on behalf of Amazon.com as to all claims asserted by Living.com. On March 19, 2003, the United States Bankruptcy Court for the Western District of Texas granted Amazon.com's motion and dismissed all of Living.com's claims with prejudice. Representing Amazon.com were Robert Rivera, Jr. and Brooke A. Taylor.
- In June 2002, Spanish Broadcasting Corporation, Inc. ("SBS") sued Clear Channel Communications, Inc. ("Clear Channel"), alleging \$1.5 billion in damages from supposed anticompetitive conduct by Clear Channel and another defendant. On behalf of Clear Channel, Susman Godfrey, LLP filed a motion to dismiss the complaint in its entirety arguing that the allegations were insufficient as a matter of law. On January 31, 2003, the District Court of the Southern District of Florida agreed with Clear Channel and dismissed each of SBS's antitrust claims with prejudice.

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The information contained herein is revised frequently and is only accurate and current as of the date printed above.  
Please call us for the most recent edition.

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## MEMBERS OF THE FIRM

### MANAGING PARTNERS

**STEPHEN D. SUSMAN**, P.C., born Houston, Texas, January 20, 1941; admitted to bar, 1965, Texas; 1999, District of Columbia; 2000, New York; 2002, Colorado. Preparatory education, Yale University (B.A., magna cum laude, 1962); legal education, University of Texas School of Law (LL.B., with highest honors, 1965). Fraternities: Phi Delta Phi; Order of the Coif; Chancellors, Grand Chancellor; Phi Kappa Phi; Friars Society. Editor-in-Chief, Texas Law Review, 1964-65. Law Clerk to The Honorable John R. Brown, United States Court of Appeals, Fifth Circuit, 1965-66; Law Clerk to Justice Hugo L. Black, United States Supreme Court, 1966-67. Visiting Professor of Law, University of Texas, 1975; Special Counsel to Attorney General of Texas, 1975. Editor: "ABA Civil Antitrust Jury Instructions" (1985). Board Certified, Civil Trial Law, Texas Board of Legal Specialization, 1978. University of Texas School of Law Outstanding Alumnus 2001. Honored in the 2006 edition of The Best Lawyers in America for being among the distinguished group of attorneys who have made the list for over 20 years. Also recognized by Texas Monthly Magazine as a Texas Super Lawyer in 2003, 2004, and 2005, as well as being in the top ten list all three years. Global Counsel 3000 identified Susman as a Leading Dispute Resolution practitioner in its 2003-2004 edition. Texas Lawyer's Go-To Guide, published in October 2002 and based on two decades of research data and interviews with hundreds of lawyers, put Susman "into an elite group of the top 135 of attorneys in the state, and the BEST in the discipline of Civil Litigation - Plaintiffs." Received 2005 Distinguished Counselor Award from the Antitrust and Business Litigation Section of the State Bar of Texas. Member: State Bar of Texas (Chairman, Section on Antitrust and Trade Regulation, 1976-77); District of Columbia Bar Association; Colorado Bar Association; New York Bar Association; American Bar Association, Section of Antitrust Law (member of Council,

1989-91) and Section of Litigation (currently member of Trial Advisory Board and Federal Practice Task Force and formerly co-chair of Task Force on Training the Advocate, chairman of Task Force on Fast Track Litigation and member of Committee to Improve Jury Comprehension); American Law Institute; ALI-ABA Advisory Group on Antitrust; Inns of Court; Editorial Advisory Board, BNA Civil RICO Reporter and Inside Litigation; Advisory Board, University of Texas School of Law's Review of Litigation; Chairman of the Texas Supreme Court Advisory Committee's Discovery Subcommittee; Board of Directors for the Texas Association of Civil Trial and Appellate Specialists; American Board of Trial Advocates; Director of the University of Houston Law Foundation; MD Anderson University Cancer Foundation Board of Visitors and The University of Texas Health Science Center Development Board.

**H. LEE GODFREY**, P.C., born Palestine, Texas, March 10, 1939; admitted to bar, 1969, Texas; 2001, District of Columbia. Preparatory and legal education, University of Texas School of Law (B.A., 1966, J.D., with honors, 1969). Fraternities: Phi Delta Phi; Order of the Coif; Chancellors; Consul. Managing Editor, Texas Law Review, 1968-69. Visiting Professor, Rice University, Commercial Law, 1980-82. Author, "Civil Voir Dire in Texas: Winning the Appeal Based on Bias or Prejudice," 31 South Texas Law Review 409 (1990). Panel Member, "Diagnosis of a Dispute," Third Annual Conference on Resolving Commercial Disputes Without Trial, Tulane University and The University of Texas, 1993. Lecturer: "Pleadings and Attacks on Pleadings," Advanced Civil Trial Practice, The State Bar of Texas Evidence Series, 1983; "Expert Witnesses; Preparation and Examination," Houston Bar Association, 1989; "Jury Selection & Opening Statements in Texas Civil Practice," South Texas College of Law 1989 Discovery and Civil Trial Practice Institute; "Arguing the Complex Case," The Art of

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Persuasion (A Performance Enhancement Course), The State Bar of Texas, 1989; "What You Need to Know About Discovery to Avoid Paying Sanctions," Houston Bar Association Discovery Institute, 1987. Honors: 2002 Texas Law Review Association Leon Green Award "for outstanding contribution to the legal profession"; 1999 U.T. Board of Advocates Honorary Barrister of the Year Award; listed in The Best Lawyers in America (Texas Business Litigation), 1991-02 editions. Member: American Law Institute; Fellow, American College of Trial Lawyers; State Bar of Texas; International Academy of Trial Lawyers; International Society of Barristers; American Bar Association, Section of Litigation; Fellow, American Bar Foundation; Houston Bar Association; Texas Bar Foundation; Board Member, International Centers for Arbitration, 1993-98; Chairman, State Bar of Texas Committee on Child Abuse and Neglect, 1995-96; Member, Texas Commission on Judicial Efficiency Task Force, 1995-present; Chairman, Judicial Selection Advisory Committee for the Southern District of Texas, 1993; Committee on Selection, Tenure & Compensation of State Judges, State Bar of Texas, 1980-81; Texas Law Review Ex-Editors Association (1976).

## PARTNERS

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Managing Editor (1995-96) and Staff Member (1994-95), Columbia Law Review, James Kent Scholar (1996) and Harlan Fiske Stone Scholar (1994-95). Law Clerk to the Honorable David M. Ebel, United States Court of Appeals, 10th Circuit. Author: Note, "State Settlement Class Actions that Release Exclusive Federal Claims: Developing a Framework for the Multijurisdictional Management of Shareholder Litigation," 95 Colum. L. Rev. 1765 (1995). Member: State Bar of California; American Bar Association (Litigation and Antitrust Sections); Los Angeles County Bar Association.

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NRD Cases, ABA Environmental Litigation Committee Newsletter, Vol. 6 (November 2004) (co-authored with Allan Kanner); *The Use of Contingency Fees in Natural Resource Damage and Other Parens Patriae Cases*, BNA Toxics Law Reporter, Vol. 19 No. 32 (Aug. 12, 2004), p. 745 (co-authored with Allan Kanner); *Communications Between Attorneys and Putative Class Members, in Attorney-Client Privilege in Civil Litigation: Protecting and Defending Confidentiality* (American Bar Association, 3rd ed., 2004) (co-authored with Allan Kanner); *Perspectives on the Attorney-Client Privilege and the Work Product Doctrine, in Attorney-Client Privilege in Civil Litigation: Protecting and Defending Confidentiality* (American Bar Association, 3rd ed., 2004) (co-authored with Allan Kanner).

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